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February 20, 2020

By: Paxton

An Act relating to Standards for Workplace Drug and Alcohol Testing Act; amending 40 O.S. 2011, Section 552, as last amended by Section 24, Chapter 11, O.S.L. 2019 (40 O.S. Supp. 2019, Section 552), which relates to definitions; modifying definition; including certain volunteers; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 2011, Section 552, as last amended by Section 24, Chapter 11, O.S.L. 2019 (40 O.S. Supp. 2019, Section 552), is amended to read as follows:

Section 552. As used in the Standards for Workplace Drug and Alcohol Testing Act:

1. "Alcohol" means ethyl alcohol or ethanol;
2. "Applicant" means a person who has applied for a position with an employer and received a conditional offer of employment;
3. "Board" means the State Board of Health;
4. "Confirmation test" means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the

1 same sample and which uses different chemical principles and is of  
2 equal or greater accuracy than the prior drug or alcohol test.

3 Where a breathalyzer test is utilized, a confirmation test means a  
4 second sample test that confirms the prior result. Where a single-  
5 use test is utilized, a confirmation test means a second test  
6 confirmed by a testing facility. A breath or blood specimen may be  
7 used for the confirmation test for alcohol. A urine, saliva or  
8 blood specimen may be used for the confirmation test for drugs;

9 5. "Department" means the State Department of Health;

10 6. "Drug" means amphetamines, cannabinoids, cocaine,  
11 phencyclidine (PCP), hallucinogens, methaqualone, opiates,  
12 barbiturates, benzodiazepines, synthetic narcotics, designer drugs,  
13 or a metabolite of any of the substances listed herein;

14 7. "Drug or alcohol test" means a chemical test administered  
15 for the purpose of determining the presence or absence of a drug or  
16 its metabolites or alcohol in a person's bodily tissue, fluids or  
17 products. Adulteration of a specimen or of a drug or alcohol test  
18 shall be considered as a refusal to test;

19 8. "Employee" means any person who supplies labor for  
20 remuneration to his or her employer in this state or any person who  
21 supplies volunteer services or labor in a safety-sensitive position  
22 as defined by Section 427.8 of Title 63 of the Oklahoma Statutes to  
23 his or her employer in this state and shall not include an  
24 independent contractor, subcontractor or employees of an independent

1 contractor; provided, however, an independent contractor,  
2 subcontractor, or employees of an independent contractor, may be  
3 subject to a workplace drug or alcohol testing policy under the  
4 terms of the contractual agreement when the drug or alcohol testing  
5 policy applies to other workers at the job site or workers who are  
6 in the same or similar classification or group;

7 9. "Employer" means any person, firm, corporation, partnership,  
8 association, nonprofit organization or public employer, which has  
9 one or more employees within this state, or which has offered or may  
10 offer employment or volunteer opportunities in safety-sensitive  
11 positions as defined by Section 427.8 of Title 63 of the Oklahoma  
12 Statutes to one or more individuals in this state;

13 10. "Public employer" means the State of Oklahoma or any  
14 political subdivision thereof, including any department, agency,  
15 board, commission, institution, authority, public trust,  
16 municipality, county, district or instrumentalities thereof;

17 11. "Review officer" means a person, qualified by the State  
18 Board of Health, who is responsible for receiving results from a  
19 testing facility which have been generated by an employer's drug or  
20 alcohol testing program, and who has knowledge and training to  
21 interpret and evaluate an individual's test results together with  
22 the individual's medical history and any other relevant information;

1        12. "Sample" means tissue, fluid or product of the human body  
2 chemically capable of revealing the presence of drugs or alcohol in  
3 the human body; and

4        13. "Testing facility" means a facility which provides  
5 laboratory services to test samples for the presence of drugs or  
6 alcohol.

7        SECTION 2. This act shall become effective November 1, 2020.

8 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
9 February 20, 2020 - DO PASS  
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